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U. S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
FILED

MAR 10 2003

ROBERT H. SHEMWELL, CLERK  
BY *[Signature]* DEPUTY

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**VOICESTREAM WIRELESS CORP.**

**Civil Action No. 02-1614**

**versus**

**Judge Melancon**

**AERIAL WAVE, L.L.C., et al**

**Magistrate Judge Hill**

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**STATEMENT OF UNCONTESTED MATERIAL FACTS**

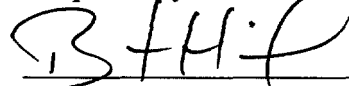
Pursuant to Local Rule 56.1, Texcom Wireless, Ltd. ("Texcom"), through undersigned counsel, submits this Statement of Uncontested Material Facts as to which there is no genuine issue:

1. TWR Freqs, L.L.C., ("TWR") as general contractor, and Voicestream Wireless Corp. ("Voicestream"), as owner entered into a contract for the construction of that telecommunication tower known as Voicestream Tower - Ken Miller #126 located in Port Barre, Louisiana ("the Project").
2. On September 25, 2001, TWR, as general contractor, entered into a contract with Texcom, as subcontractor, to perform the foundation work on the Project for a price of \$61,000.
3. Texcom completed all work timely and in a workmanlike manner as required by the September 25, 2001 contract.
4. TWR failed to pay Texcom the \$61,000.00 due for the work it performed on the project despite amicable demand.
5. As a result of TWR's failure to pay, Texcom was forced to file suit to collect the funds due.

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6. Texcom filed suit against TWR in the District Court of Cleveland County, State of Oklahoma, in that matter entitled *Texcom Wireless, Ltd. v. TWR Freqs, L.L.C.*, case number CJ-2002-9(L). Judgment was entered on March 18, 2002.
7. On April 18, 2002, Texcom filed a Petition to Make Executory a Foreign Judgment in the 19<sup>th</sup> Judicial District Court, Parish of East Baton Rouge, State of Louisiana in that matter entitled *Texcom Wireless, Ltd. v. TWR Freqs, L.L.C.*, Suit No. 494,521 "D".
8. On May 3, 2002, judgment was entered making the Oklahoma judgment executory in the State of Louisiana.
9. On May 28, 2002, Texcom filed a Petition for Garnishment under Writ of Fieri Facias naming Voicestream as garnishee which sought to recover from Voicestream the full amount due under the judgment, which at the time was \$84,716.20.
10. Voicestream was served with the garnishment interrogatories on June 12, 2002.
11. On July 26, 2002, Voicestream filed an answer to the garnishment interrogatories.
12. On July 31, 2002, Voicestream brought this matter by filing a complaint in interpleader and deposited into the registry of the court \$121,319.89 which represents the balance due under its agreement with TWR.

Respectfully submitted:



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**CERTIFICATE**

I hereby certify that a copy of the above and foregoing Statement of Uncontested Material Facts has been mailed via U.S. Mail, postage prepaid, to the following:

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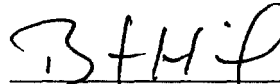
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Baton Rouge, Louisiana this 7 day of March, 2003.

  
\_\_\_\_\_  
M. Brent Hicks

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March 7, 2003

ROBERT H. SHEMWEILL, CLERK  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

Honorable Catherine B. Carter  
Deputy Clerk-in-Charge  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LA  
800 Lafayette Street  
Lafayette, LA 70501

Re: VoiceStream Wireless Corporation v. Aerial Wave, LLC et al.,  
United States District Court, Western District (Lafayette)  
Civil Action No. 02-1614  
Our File No: 19930.0001

Dear Ms. Carter:

Enclosed is the original and two copies of a Motion for Partial Summary Judgment, Memorandum in Support and Statement of Uncontested Facts with regard to the above captioned matter. Please file the originals into the record of this matter and return one (1) conformed copy of each to me in the enclosed self-addressed stamped envelope. *done/nem*

Thank you for your attention to this matter. Please do not hesitate to call with any questions.

Sincerely,

McGLINCHEY STAFFORD, PLLC

  
M. Brent Hicks

MBH/std  
Enclosures

cc: Ben Benedum, Esq.  
Dale Whittenberg  
All Counsel of Record